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made in a deed in unambiguous words, it cannot be revoked by implication by a later clause.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. §§ 267-273, 434-447; Dec. Dig. § 97.\* 4 Va.-W. Va. Enc. Dig. 422.]

**6. Deeds (§ 93\*)—Construction—Intent.**—All rules of construction have but one object, and that is to ascertain the intent of the parties; and, if such intent contravenes no rule of law, full effect must be given it.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. §§ 231, 232; Dec. Dig. § 93.\* 4 Va.-W. Va. Enc. Dig. 419; 14 Va.-W. Va. Enc. Dig. 320; 15 Va.-W. Va. Enc. Dig. 268.]

**7. Deeds (§ 129\*)—Construction—Life Estate—"Heirs."**—A deed conveyed property to a trustee to hold for the benefit of husband and wife for their life, or the life of the survivor, and after their death to their daughter and the "heirs of her body," and, if the daughter died without lawful issue surviving her, for the benefit of E. and her children as to one moiety, and benefit of F. as to the other moiety, and, if both the daughter and E. should die, then to F. The deed then provided that the trustee, on the death of the husband and wife and their daughter, should convey the fee to the daughter's children, if any, otherwise to E. and F., etc. Held, that the daughter took only a life estate, as the word "heirs" was used in the sense of "children," and hence a deed by her in her lifetime conveyed only a life estate.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. §§ 351, 360-365, 416-430, 434, 435; Dec. Dig. § 129.\* 4 Va.-W. Va. Enc. Dig. 434.

For other definitions, see Words and Phrases, vol. 4, pp. 3241-3265; vol. 8, pp. 7677, 7678.]

Appeal from Circuit Court, Campbell County.

Bill for partition by B. F. Bernard and another against John Morris and Grace D. Morris, by next friend. From a decree adjudging that defendant Grace D. Morris, had no interest in the property, she appeals. Affirmed.

*Scott & Buchanan*, of Richmond, for appellant.

*S. V. Kemp*, of Lynchburg, and *Frank Nelson*, of Rustburg, for appellees.

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MILLER'S TRUSTEES et al. v. SMITH et al.

March 13, 1913.

[77 S. E. 462.]

**1. Trusts (§ 329\*)—Accounting of Trustee—Report of Commissioner—Modification on Appeal—Effect—Where the commissioner's**

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

report, in proceedings relative to a trust created by deed, charged one trustee with a single item and on the basis thereof reported certain items of credit for one beneficiary, the subsequent cancellation, on appeal, of the charge against the trustee eliminated the beneficiary's right to the items of credit.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 490; Dec. Dig. § 329.\* 13 Va.-W. Va. Enc. Dig. 354.]

**2. Costs (§ 76\*)—Award—Operation—Res Judicata.**—A decree entered on a commissioner's report in a suit against trustees, which report made no mention of costs other than to deduct a small amount for unpaid and additional costs to accrue, was not res judicata as to all costs subsequent to the report.

[Ed. Note.—For other cases, see Costs, Cent. Dig. §§ 319-325; Dec. Dig. § 76.\* 3 Va.-W. Va. Enc. Dig. 628.]

**3. Costs (§ 209\*)—Fee Bill—Presumption of Correctness.**—Fee bills of the clerk and other officers of the court were presumptively correct; and it was not ground for a refusal to allow such costs that there was no evidence to show that they had not already been paid.

[Ed. Note.—For other cases, see Costs, Cent. Dig. § 789; Dec. Dig. § 209.\* 11 Va.-W. Va. Enc. Dig. 333.]

**4. Appeal and Error (§ 1194\*)—Determination—Effect in Lower Court.**—Where, on appeal in an action against trustees, it was adjudicated that a certain person's interest in certain of the land had been acquired by one trustee, such person could not, on the case being recommitted to the commissioner, be heard to assert an interest in the proceeds arising from a sale of such land.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4648-4656, 4660; Dec. Dig. § 1194.\* 1 Va.-W. Va. Enc. Dig. 646; 14 Va.-W. Va. Enc. Dig. 113; 15 Va.-W. Va. Enc. Dig. 77.]

Appeal from Circuit Court, Rappahannock County.

Action by Mary A. Smith and others against Miller's trustees and others. From the decrees, defendants appeal. Reversed.

*H. G. Moffett*, of Washington, Va., and *J. A. C. Keith*, of Warrenton, for appellants.

*Munford, Hunton, Williams & Anderson*, of Richmond, for appellees.

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PENN et al. v. TUCKER et al.

March 13, 1913.

[77 S. E. 473]

**1. Executors and Administrators (§ 406\*)—Sale of Property—Proceeds—Distribution.**—Where, during the administration of an

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.